

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3455 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

-----  
ADARSH MAZOR BANDHKAM CO-OP.SOC.LTD.

Versus

STATE OF GUJARAT

-----  
Appearance:

MR DM THAKKAR for Petitioner

MR ND GOHIL for Respondent No. 1

None present for other Respondent

-----  
CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 09/10/96

ORAL JUDGMENT

Heard learned counsel for the parties. Prayer has been made by the petitioner for issuing a writ of Mandamus or a writ in the nature of Mandamus or any other appropriate writ, order or direction quashing and setting aside the impugned action of the respondent in denying the tender forms to the petitioner society in respect of the construction works/contracts from Sr.No.21 to 23 as

shown in annexure 'A'. Further prayer has been made to declare the Government Resolution dated 4th June 1986 unconstitutional.

2. So far as first prayer is concerned, the learned counsel for the petitioner admits that by passing of time, this prayer has become infructuous. However, so far as the second prayer is concerned, the learned counsel for the petitioner contends that it still survives. However, he fairly conceded that he has no instructions regarding the latest position prevailing in the Department regarding giving of contracts to the cooperative societies of the category of the petitioner. Challenge has been made to annexure 'D' on the ground that introduction of further condition in Para-14 to the effect that the Government should give contracts to the cooperative societies which involves labour components less than 50% of the cost of works. Grievance of the petitioner is that by virtue of this condition, the contracts which own the minimum 50% of cost of labour only should be granted to such cooperative societies like the petitioner. This amendment, the learned counsel for the petitioner contends, results in denial of contract for construction work if the contract did not involve minimum labour component to the extent of 50% of costs of the total work.

3. I do not consider it to be appropriate to go on and decide the submissions on merits as the counsel for the petitioner is unable to say for all these years whether that Resolution still continues or not. The petitioner has also not given out whether during this interval the petitioner has been granted any contract or not. There may be a possibility that further Resolution would have been passed by the Government with regard to the condition for grant of contracts to the societies like the petitioner. These are the material and important facts which should have been brought on record by the petitioner and the petitioner should have given latest information. The petitioner should have also given out whether during this period any contract has been given to it or not. The learned counsel for the petitioner fairly conceded that in fact the petitioner is not in his contact. Be that as it may. These are not the matters which are operated as res-judicata. If the petitioner still has any grievance of the nature as made in this petition, it is at liberty to approach the respondent by making a representation. On such representation, the respondent shall consider the matter afresh.

4. This writ petition stands disposed of accordingly  
in aforesaid terms. Rule stands disposed of accordingly.  
No order as to costs.

.....

(sunil)